

PT 96-3
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

LUTHERAN CHILD AND FAMILY)		
SERVICES OF ILLINOIS)		
Applicant)		
)	Docket #	93-84-115
v.)		
)	Parcel Index #	14-33-456-046
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

APPEARANCES: MR. ERIC D. ANDERSON APPEARED ON BEHALF OF THE LUTHERAN CHILD AND FAMILY SERVICES OF ILLINOIS.

SYNOPSIS:

THE HEARING IN THIS MATTER WAS HELD AT 100 WEST RANDOLPH STREET, CHICAGO, ILLINOIS, ON JANUARY 9, 1996, TO DETERMINE WHETHER OR NOT COOK COUNTY PARCEL NO. 14-33-456-046 QUALIFIES FOR EXEMPTION FROM REAL ESTATE TAX FOR THE 1993 ASSESSMENT YEAR.

MR. CHARLES AYRES, THE DIRECTOR OF FACILITIES MANAGEMENT OF LUTHERAN CHILD AND FAMILY SERVICES OF ILLINOIS (HEREINAFTER REFERRED TO AS THE "APPLICANT"), TESTIFIED ON BEHALF OF THE APPLICANT.

THE ISSUES IN THIS MATTER INCLUDE FIRST, WHETHER THE APPLICANT WAS THE OWNER OF THIS PARCEL DURING ALL OR PART OF THE 1993 ASSESSMENT YEAR. THE SECOND ISSUE IS WHETHER THE APPLICANT IS A CHARITABLE ORGANIZATION. THE LAST ISSUE IS WHETHER THIS PARCEL WAS EITHER USED BY THE APPLICANT FOR

CHARITABLE PURPOSES OR WAS IN THE PROCESS OF ADAPTATION FOR CHARITABLE USE DURING ALL OR PART OF THE 1993 ASSESSMENT YEAR. FOLLOWING THE SUBMISSION OF ALL OF THE EVIDENCE AND A REVIEW OF THE RECORD, IT IS DETERMINED THAT THE APPLICANT OWNED THE PARCEL HERE IN ISSUE DURING THE PERIOD SEPTEMBER 17, 1993 THROUGH DECEMBER 31, 1993. IT IS ALSO DETERMINED THAT THE APPLICANT QUALIFIES AS A CHARITABLE ORGANIZATION. FINALLY, IT IS DETERMINED THAT THE APPLICANT WAS IN THE PROCESS OF ADAPTING THIS PARCEL FOR CHARITABLE USE DURING THE PERIOD SEPTEMBER 17, 1993 THROUGH DECEMBER 31, 1993.

FINDINGS OF FACT:

1. ON JANUARY 7, 1994, THE SANGAMON COUNTY BOARD OF REVIEW TRANSMITTED AN APPLICATION FOR PROPERTY TAX EXEMPTION TO BOARD OF REVIEW CONCERNING THIS PARCEL FOR THE 1993 ASSESSMENT YEAR, TO THE ILLINOIS DEPARTMENT OF REVENUE (HEREINAFTER REFERRED TO AS THE "DEPARTMENT"). (DEPT. EX. NO. 1)

2. ON MARCH 16, 1995, THE DEPARTMENT NOTIFIED THE APPLICANT THAT IT WAS DENYING THE EXEMPTION OF THIS PARCEL FOR THE 1993 ASSESSMENT YEAR, ON THE GROUNDS THAT THIS PARCEL WAS NOT IN EXEMPT USE DURING THE SAID ASSESSMENT YEAR. (DEPT. EX. NO. 2)

3. BY A LETTER DATED APRIL 3, 1995, THE ATTORNEY FOR THE APPLICANT REQUESTED A FORMAL HEARING IN THIS MATTER. (DEPT. EX. NO. 3)

4. THE HEARING HELD IN THIS MATTER ON JANUARY 9, 1996, WAS HELD PURSUANT TO THAT REQUEST.

5. THE APPLICANT IS AN ILLINOIS NOT-FOR-PROFIT CORPORATION. (DEPT. EX. NO. 1L)

6. THE PURPOSE CLAUSE OF THE APPLICANT'S ARTICLES OF INCORPORATION, AS AMENDED, (DEPT. EX. NO. 1L) INCLUDES THE FOLLOWING:

- D. TO PROVIDE FOSTER FAMILY CARE, HOUSEKEEPER SERVICE, OR ANY OTHER TYPE OF FACILITY, CARE AND SERVICE WHICH IS DEEMED BEST FOR SUCH CHILDREN;
- F. TO PROVIDE WHEN DEEMED ADVISABLE, FOR THE ADOPTION OF SUCH CHILDREN BY PROPER PERSONS;
- G. TO PARTICIPATE IN AND CARRY ON ANY AND ALL OTHER GENERAL SOCIAL SERVICES OF A CHARITABLE AND PHILANTHROPIC NATURE.

7. DURING THE 1993 ASSESSMENT YEAR, THE APPLICANT OPERATED VARIOUS PROGRAMS INCLUDING FOSTER CARE, FAMILY COUNSELING, FAMILY LIFE EDUCATION AND ADOPTION SERVICES. (TR. P. 12)

8. I TAKE ADMINISTRATIVE NOTICE OF THE FACT THAT THE DEPARTMENT IN DOCKET NOS. 94-41-28, 93-16-448 AND 93-22-461 AMONG OTHERS, HAS DETERMINED THAT THE APPLICANT IS A CHARITABLE ORGANIZATION.

9. THE APPLICANT ACQUIRED THE PARCEL HERE IN ISSUE BY A WARRANTY DEED DATED SEPTEMBER 17, 1993. (DEPT. EX. NO. 1B)

10. THE PRIMARY REASON THAT THE APPLICANT ACQUIRED THIS PARCEL WAS TO PROVIDE A LARGER BUILDING, SO THAT THE APPLICANT'S SPRINGFIELD STAFF, WHICH AT THAT TIME OCCUPIED RENTAL QUARTERS AT TWO LOCATIONS, COULD ALL BE LOCATED IN ONE BUILDING. (TR. P. 11)

11. ON AUGUST 10, 1993, THE APPLICANT HIRED AN ARCHITECT, MR. BRIAN. MR. BRIAN PROCEEDED TO PREPARE DRAWINGS FOR THE REMODELING WORK ON THE BUILDING ON THIS PARCEL, INCLUDING SEVERAL REVISIONS. (APPL. EX. NO. 1) (TR. PP. 14 & 15)

12. ON AUGUST 18, 1993, BROWN ENGINEERS COMPLETED A STRUCTURAL INSPECTION OF THE BUILDING ON THIS PARCEL, AT THE APPLICANT'S REQUEST. (APPL. EX. 1)

13. DURING DECEMBER, 1993, THE APPLICANT RECEIVED BIDS FOR MOVING SERVICES. (APPL. EX. 1)

14 DURING JANUARY, 1994, THE APPLICANT'S SPRINGFIELD FOSTER CARE STAFF MOVED FROM THE BUILDING THAT THE APPLICANT HAD BEEN RENTING ON NORTH GRAND AVENUE TO THE BUILDING ON THIS PARCEL. (APPL. EX. NO. 1)

15. DURING MARCH, 1994, O'SHEA BUILDERS WAS AWARDED THE CONTRACT FOR REMODELING THE BUILDING ON THIS PARCEL. (APPL. EX. NO. 1)

16 THE REMAINDER OF THE APPLICANT'S SPRINGFIELD EMPLOYEES MOVED INTO THE BUILDING ON THIS PARCEL DURING JUNE OF 1994. (APPL. EX. NO. 1)

17. DURING AUGUST OF 1994, O'SHEA BUILDERS BEGAN THE SECOND PHASE OF THE REMODELING WORK, WHICH WAS COMPLETED DURING SEPTEMBER OF 1994.
(TR. P. 24)

18. I THEREFORE FIND THAT THE APPLICANT WAS IN THE PROCESS OF ADAPTING THE BUILDING ON THIS PARCEL FOR EXEMPT USE DURING THE PERIOD SEPTEMBER 17, 1993, THROUGH DECEMBER 31, 1993.

CONCLUSIONS OF LAW

ARTICLE IX SECTION 6 OF THE ILLINOIS CONSTITUTION OF 1970, PROVIDES IN PART AS FOLLOWS:

THE GENERAL ASSEMBLY BY LAW MAY EXEMPT FROM TAXATION ONLY THE PROPERTY OF THE STATE, UNITS OF LOCAL GOVERNMENT AND SCHOOL DISTRICTS AND PROPERTY USED EXCLUSIVELY FOR AGRICULTURAL AND HORTICULTURAL SOCIETIES, AND FOR SCHOOL, RELIGIOUS, CEMETERY AND CHARITABLE PURPOSES.

35 ILCS 205/19.7 EXEMPTS CERTAIN PROPERTY FROM TAXATION IN PART AS FOLLOWS:

ALL PROPERTY OF INSTITUTIONS OF PUBLIC CHARITY, ALL PROPERTY OF BENEFICENT AND CHARITABLE ORGANIZATIONS, WHETHER INCORPORATED IN THIS OR ANY OTHER STATE OF THE UNITED STATES,...WHEN SUCH PROPERTY IS ACTUALLY AND EXCLUSIVELY USED FOR SUCH CHARITABLE OR BENEFICENT PURPOSES, AND NOT LEASED OR OTHERWISE USED WITH A VIEW TO PROFIT,....

AS HAS BEEN PREVIOUSLY POINTED OUT IN THIS MATTER, THE DEPARTMENT HAS DETERMINED ON SEVERAL OCCASIONS, THAT THE APPLICANT IS A CHARITABLE ORGANIZATION.

ILLINOIS COURTS HAVE HELD PROPERTY TO BE EXEMPT FROM TAXATION WHERE IT HAS BEEN ADEQUATELY DEMONSTRATED THAT THE PROPERTY IS IN THE ACTUAL PROCESS OF DEVELOPMENT AND ADAPTATION FOR EXEMPT USE. ILLINOIS INSTITUTE OF TECHNOLOGY V. SKINNER, 49 ILL.2D 59 (1971); PEOPLE EX REL. PEARSALL V. CATHOLIC BISHOP OF CHICAGO, 311 ILL. 11 (1924); IN RE APPLICATION OF COUNTY COLLECTOR, 48 ILL.APP.3D 572 (1ST DIST. 1977); AND WESLIN PROPERTIES, INC. V. DEPARTMENT OF REVENUE, 157 ILL.APP.3D 580 (2ND DIST. 1987).

THE APPLICANT ACQUIRED THIS PARCEL BY A WARRANTY DEED DATED SEPTEMBER 17, 1993. EVEN BEFORE THE APPLICANT ACQUIRED THE PROPERTY, THE APPLICANT HAD ENGAGED AN ARCHITECT TO PREPARE THE DRAWINGS NECESSARY TO ADAPT THIS BUILDING FOR USE AS THE APPLICANT'S SPRINGFIELD OFFICE. ONCE

THE APPLICANT ACQUIRED THIS PARCEL, THE APPLICANT PROCEEDED IN AN ORDERLY FASHION TO ADAPT THE BUILDING ON THIS PARCEL FOR EXEMPT USE. THE APPLICANT COMPLETED THIS PROJECT DURING SEPTEMBER, 1994.

I THEREFORE CONCLUDE THAT THE APPLICANT OWNED THIS PARCEL AND WAS IN THE PROCESS OF ADAPTING THE BUILDING ON IT FOR EXEMPT USE DURING THE PERIOD SEPTEMBER 17, 1993 THROUGH DECEMBER 31, 1993.

CONSEQUENTLY, I RECOMMEND THAT SANGAMON COUNTY PARCEL NO. 14-33-456-046 AND THE BUILDING THEREON, BE EXEMPT FROM REAL ESTATE TAX FOR 29 PERCENT OF THE 1993 ASSEMENT YEAR.

RESPECTFULLY SUBMITTED,

GEORGE H. NAFZIGER
ADMINISTRATIVE LAW JUDGE
APRIL , 1996